

**CHAPTER NO. 670**

**HOUSE BILL NO. 3510**

**By Representatives McMillan, Winningham, Maddox, Fitzhugh, Shepard, Pinion, McDaniel, Harmon, Borchert, Shaw, Buck, Tidwell, Litz, Yokley, Walker, Bone, Head, Hensley, Hood, Towns, Coleman and Mr. Speaker Naifeh**

**Substituted for: Senate Bill No. 3397**

**By Senators Crutchfield, Graves, Kurita, Norris, Burks, Herron**

AN ACT to amend Tennessee Code Annotated, Title 49, relative to instructional salaries.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-3-356, is amended by inserting the words and punctuation “, sixty-five percent (65%) in the instructional positions component” between the words “classroom components” and the words “and fifty percent”.

SECTION 2. Tennessee Code Annotated, Section 49-3-366, is amended by deleting the section in its entirety and substituting instead the following:

**Section 49-3-366**

(a) Notwithstanding any other law to the contrary, effective with the 2004-2005 fiscal year, the dollar value of the BEP instructional positions component shall be thirty-four thousand dollars (\$34,000) per instructional position. In subsequent fiscal years, the dollar value of the instructional positions component in the BEP shall be set in accordance with the provisions of Section 49-3-351.

(b) No local education agency shall receive from the BEP in fiscal year 2004-2005 and in subsequent fiscal years a lesser amount of state funds for instructional salaries, benefits, insurance, and unit costs adjusted for any mandatory increases in these categories and adjusted for any changes in average daily membership, than it received for such purposes in the 2003-2004 fiscal year.

(c) The commissioner shall provide to each local education agency, as appropriate, a state funding plan to transition from prior appropriations pursuant to Section 11, Items 4(a) and 4(b) of Chapter 356 of the Public Acts of 2003, to funding under the BEP for the instructional positions component. In developing such plan, the commissioner shall consider the applicable local salary schedules for instructional positions, the fiscal capacity of the local education agency and the local effort in raising revenue. The department shall provide each local education agency notice of its obligations and anticipated revenues under such transition plan.

SECTION 3. Tennessee Code Annotated, Section 49-1-302(a)(4) is amended by deleting the following language and punctuation:

The board shall establish a review committee for the Tennessee basic education program. The committee shall include the commissioners of education

and finance and administration, or their designees. Others may be appointed by the board as determined by the board.

SECTION 4. Tennessee Code Annotated, Section 49-1-302(a)(4), as amended by Section 3, is further amended by designating the amended subdivision as (a)(4)(A) and by adding the following language as a new subdivision (a)(4)(B):

(B) The board shall establish a review committee for the Tennessee basic education program. The committee shall include the executive director of the state board of education, the commissioner of education, the commissioner of finance and administration, the comptroller of the treasury, the director of the Tennessee Advisory Commission on Intergovernmental Relations, the chairs of the standing committees on education of the senate and house of representatives, and the director of the office of legislative budget analysis, or their designees. The board shall appoint at least one member from each of the following groups: teachers, school boards, directors of schools, county governments, municipal governments which operate local education agencies, finance directors of urban school systems, finance directors of suburban school systems, and finance directors of rural school systems. The BEP review committee shall meet at least four times a year and shall regularly review the BEP components, as well as identify needed revisions, additions, or deletions to the formula. The committee shall annually review the BEP instructional positions component, taking into consideration factors including, but not limited to, total instructional salary disparity among local education agencies, differences in benefits and other compensation among local education agencies, inflation, and instructional salaries in states in the southeast and other regions. The committee shall prepare an annual report on the BEP and shall provide such report, on or before November 1 of each year, to the governor, the state board of education, and the select oversight committee on education. This report shall include recommendations on needed revisions, additions, and deletions to the formula as well as an analysis of instructional salary disparity among local education agencies.

SECTION 5. Tennessee Code Annotated, Section 49-3-354(b), is amended by adding the following language at the end of the subsection:

BEP funds earned in the instructional positions component must be spent for instructional positions.

SECTION 6. Tennessee Code Annotated, Section 49-3-306(a), is amended by designating the existing language as subdivision (a)(1) and by adding the following language to be designated as subdivision (a)(2):

(a)

(2) In addition to the state salary schedule developed by the commissioner for fiscal year 2004-2005 pursuant to subdivision (a)(1), the commissioner shall develop a local salary schedule for each local education agency for fiscal year 2004-2005. Notwithstanding the provisions of this section or any other law to the contrary, such local salary schedule shall provide that the local education agency adopt a local salary supplement for fiscal year 2004-2005 that is lower than the supplement paid in fiscal year 2003-2004, so long as any such reduction by a local education agency in the local salary supplement is not larger in amount than any increase in the state minimum salary for that local education agency for fiscal year 2004-2005 resulting from appropriations

made pursuant to this act. Any reduction by a local education agency of the local salary supplement for fiscal year 2004-2005 shall be subject to existing collective bargaining agreements to which such local education agency is a party. In the event such agreement bars a reduction in local salary supplements and the local education agency is unable to reach an agreement permitting such reduction, the commissioner shall reduce the state minimum salary for that local education agency in an appropriate amount for fiscal year 2004-2005. Nothing in this subsection shall be construed to diminish or in any way serve to reduce any general state salary schedule increase that may be provided outside the parameters of this act. Nothing in this subdivision (a)(2) shall be construed to prohibit or modify the mandatory nature of negotiations of salary for fiscal year 2004-2005 where such supplements or improvements in salary are implemented subsequent to the commissioner's re-calibration or possible reduction of some local salary supplements as they existed on the 2003-2004 local salary schedules.

SECTION 7. Tennessee Code Annotated, Subsection 49-3-306(b), is amended by adding the following language at the end of the subsection:

The provisions of the foregoing sentence shall not prohibit a reduction in local salary supplements pursuant to subsection (a)(2).

SECTION 8. Tennessee Code Annotated, Subsection 49-3-306(e), is amended by adding the following language at the end of the subsection:

For fiscal year 2004-2005, such schedule shall include, as a minimum, the schedule recommended by the commissioner for salary equalization purposes under subsection (a)(2).

SECTION 9. In reviewing the basic education program for fiscal year 2005-2006, the BEP review committee is requested to give special consideration to costs of enhanced services to address the needs of at-risk children, the cost of educating English language learners (including teachers, translators and related professions) and the development and implementation of a system-level fiscal capacity model.

SECTION 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 11. This act shall take effect upon becoming law, the public welfare requiring it.

PASSED: April 29, 2004



JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES



JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 14<sup>th</sup> day of May 2004



PHIL BREDESEN, GOVERNOR